

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 115 of 1998

with

INCOME TAX APPLICATION No 116 of 1998

with

INCOME TAX APPLICATION No 117 of 1998

with

INCOME TAX APPLICATION No 118 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and Sd/-

MR.JUSTICE A.R.DAVE Sd/-

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? Yes @@ee  
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Yes

2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No  
of any Order made thereunder? No  
of any Order made thereunder? No  
of any Order made thereunder? No  
of any Order made thereunder? No  
of any Order made thereunder? No



CIT(A) deleting the addition on account of inflation of raw materials?"

"Whether the Appellate Tribunal has correctly appreciated the facts available on record so as to reach the above conclusion?"

ITA 118 of 1998  
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"Whether the Appellate Tribunal is right in law and on facts in confirming the order made by the CIT(A) deleting the addition on account of inflation of raw materials?"

"Whether the Appellate Tribunal has correctly appreciated the facts available on record so as to reach the above conclusion?"

2. We have been taken by the learned counsel appearing for the applicant in these four matters, through the orders of the Tribunal, first Appellate Authority and the Assessing Officer. So far as ITAs 115/98 and 116/98 are concerned, the grievance of the Commissioner is that the Tribunal could not have restricted the addition to Rs. 4 lacs and Rs. 3 lacs from Rs. 20 lacs and Rs. 24 lacs respectively for the Assessment Years 1985-86 and 1986-87. In this regard, the Tribunal has in para 29 of its judgment, observed that the Assessing Officer had not taken into consideration that in the past the shortage of 6.83% was declared and accepted for the Assessment Year 1984-85 and 5.48% for the Assessment Year 1986-87. Keeping in view the shortages which were claimed and accepted in the past, the Tribunal restricted the additions. It cannot be said that the estimated shortage, which is worked out on a lower side, raises any question of law. Even if the Tribunal has committed some error in arriving at the finding of fact by making an estimate of shortage which is more favourable to the assessee, it cannot be said that any question of law arises for our consideration.

3. As regards Income Tax Applications Nos. 117/98 and 118/98, the point relates to inflation of consumption of raw material. The Assessing Officer had rejected the book results and relied upon his own observations at the time of local inspection done by him. In this regard, the Tribunal has noted in paragraph 23 of its order, that it was an admitted fact that no incriminating documents or evidence relatable to the two years in question were found in the course of the search proceedings. It was

then held in para 25 of the order that the assessee firm was established in the year 1964 and maintained regular books of accounts which were found to be duly audited and accepted in the past. It was held that purchases and sales were duly vouched, the assessee had maintained quantitative details of major items like tobacco and silver foils and that the number of ingredients were so many that it was not practicable to keep quantitative details of each and every small item. It was noted by the Tribunal that the assessee had regularly maintained different registers showing full particulars of purchases, consumption, stock, output, etc. of the raw materials as well as the finished products and there were no defects pointed out in the excise records. It is thus clear that the Tribunal did not agree with the Assessing Officer on the rejection of the books of accounts by him and found the material produced by the assessee to be reliable. In respect of the questions which are suggested in these two applications regarding inflation of raw materials other than tobacco and silver foils, the Tribunal noted that the ITO had worked out the inflation by applying formula of 5%. According to the Tribunal, there was no justification for making such presumption and the estimate since the assessee had maintained complete details of the said raw materials, purchases and consumption. The Tribunal observed that in the type of processes which were involved in the manufacture of the goods in question, it was not practicable to weigh each and every item of raw material while putting them in the mixing machine. In short, the Tribunal, finding that the particulars in the books of accounts in respect of the other raw materials could not have been rejected and that there was no justification for the estimate done by the ITO, held that the additions were rightly deleted by CIT (Appeals). In our view, these findings do not raise any

4. All these four applications are, therefore, rejected. Rule is discharged in each of them with no order as to costs.

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